

From: [Jeffreys, Grace](#)
To: [Clerk General](#)
Cc: [King, Lauren](#)
Subject: FW: CE John Response to NWDA Appeal
Date: Thursday, July 8, 2021 10:51:48 AM
Attachments: [C.E. John Letter to the City Council to Deny the Appeal of NWDA \(01140563xC624A\).pdf](#)

Please add this letter to the testimony for the Appeal to City Council of LU 20-123610 DZM – NW 23rd and Marshall Apartments.

Grace Jeffreys

City Planner | Design and Historic Review
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Hours: 8am – 4:30pm, M-TH

Bureau of Development Services | Land Use Services

1900 SW 4th Ave., Suite 5000 | Portland, OR 97201
<https://www.portland.gov/bds/development-services-center-0>

From: Christe White <cwhite@radlerwhite.com>
Sent: Thursday, July 8, 2021 10:37 AM
To: Jeffreys, Grace <Grace.Jeffreys@portlandoregon.gov>
Cc: Seth GaRey <sgarey@cejohn.com>; richard@gbdachitects.com; Brittany M. Spicher <bspicher@radlerwhite.com>
Subject: CE John Response to NWDA Appeal

Hi Grace, I am sending you our letter to Council in response to the NWDA appeal. If you have any questions let me know. Richard will also reach out to share presentations so we do not end up repeating too many of your slides. I will also submit this letter to the Council testimony email.
Thanks! Christe



Christe Carlson White

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Christe C. White
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July 8, 2021

Via Email

Mayor Ted Wheeler
Council Members
1221 SW 4th Ave
Portland OR 97204

Re: Applicant's Response to Appeal of Design Review Approval: LU20-123610DZM

Dear Mayor and Council Members:

This office represents the applicant, CE John Properties 71, LLC in its proposal to build a 74-unit mixed use building with 10,000 square feet of retail use at the corner of NW 23rd and NW Marshall. The City's design review staff recommended approval of this proposal to the Design Commission and, in turn, the Design Commission also unanimously approved the project.

The property is zoned CM2 and is within the Mixed-Use Urban Center Comprehensive Plan designation. It is also located in the Northwest Plan District ("NWPD"). These designations have particular relevance to this appeal. When the City devised the CM2 zone, it prioritized and encouraged certain height and FAR bonuses. The City established a 2.5:1 base FAR and a 1.5:1 FAR bonus if the project builds inclusionary housing. If the applicant earns the FAR bonus, it also receives the corresponding height bonus of 10 feet. This project implements and utilizes both these City intended incentives. The building is therefore 55 feet in height and comprises a 3.8:1 FAR, in full compliance with the code.

Both the Bureau of Development Services and the Design Commission agree that this project meets and correctly implements these CM2 base zone and NWPD development standards.

This project was also subject to the Community Design Guidelines. The NWDA appealed the Design Commission decision on one guideline, Guideline P1.1, which states:

"Urban Character: District-wide Considerations. Development throughout the Northwest District should contribute to maintaining the district's architectural scale and its fine-grain pattern of development. New buildings and additions that are taller than the two- to four-story building height that is predominant in the district should have upper stories stepped back in order to contribute to a more consistent streetscape and to maintain neighborhood scale. Also, the street frontage of large projects should be divided into distinct components that reflect the district's established pattern of partial block massing."

NWDA argues that the City's consideration of step backs on *all upper stories* of the building and its consideration of the parapets and cornicing were irrelevant to the Urban Character guideline and therefore in error.

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The Urban Character design guideline clearly permits and even requires the Commission to consider the entire continuous roof line and facades of all the upper stories as well as the parapets and cornices to determine whether the project meets the design guideline. The guideline sentence at issue seems to be: *New buildings and additions that are taller than the two- to four-story building height that is predominant in the district should have upper stories stepped back in order to contribute to a more consistent streetscape and to maintain neighborhood scale.*

The guideline expressly refers to the *upper stories* in the plural, not just a single façade. The guideline continues that the reference to setbacks is to contribute to a “more consistent streetscape and maintain neighborhood scale.” Under PCC 33.700.070, literal readings of the code are required. The simple and literal reading of this guideline is for the Commission to review the upper stories of the proposal in the context of the existing buildings to the front, sides and back of the project and determine whether the proposal responds to the “streetscape and the neighborhood.” The Design Commission did just that in its study and findings.

The Design Commission found:

The proposed building configuration responds to the architectural scale and the fine-grain pattern of the district in the following ways:

The building façade is broken into three distinct “blocks” to reflect the district’s pattern of partial block massing. These three “blocks” are intended to reflect lot and building frontage lengths of the early twentieth century and reinforce the pattern of partial block massing. The Northwest 23rd Avenue frontage is split into a central massing of 78 feet wide and book ended with two smaller facades of 37 and 47 feet wide. These divisions are emphasized with different brick colors and detailing, window configurations, and ground floor storefront and canopy details. The recesses between them comply with the two-foot depth requirement for façade articulation.

The ground floor is delineated to accommodate a variety of retail tenant sizes, with larger tenant spaces anchoring the corners and four smaller tenant spaces in between, each with a unique but complementary storefront character.

While the building is taller than most existing buildings in the area, it is within the allowable building height limit, and design elements have been incorporated to address the four-story building height datum. A direct result of the step-down height at the west edge is a that significant portion (almost a third) of the north and south elevations are in fact 4 stories tall. The southwest parapet detail carries thru the south and southeast elevations to delineate this datum. Additionally, the middle portion of the east elevation which makes up approximately 40% of the length has a brick cornice detail at this datum height that is further enhanced with a 6-inch step back to the upper floor.

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These findings demonstrate that the Commission reviewed the entirety of the building facades and the context of the neighborhood and the streetscape and found that the building more than satisfied the Urban Character Guideline. Ironically, if the Commission only considered the NW 23rd street façade for example and removed all other facades from consideration, the Commission may have been incorrectly interpreting the guideline. A project is never about a single façade but instead it is always about how each façade is designed in context and coherently with the rest of the building and the neighborhood. Here, the project is directly across NW 23rd from Legacy Emanuel Hospital which of course presents a different context than the R1 zone to the rear of the project. The Design Commission found that the project successfully responded to each of these distinct building environments with appropriate design responses, setbacks and parapet and cornice treatments.

For these reasons, the Design Commission was well within its interpretative discretion and the unanimous decision to approve the design should be upheld by the Council.

While not directly relevant to the approval criteria, it is worth noting that this project is one of too few residential projects proceeding through the development review process. Timely resolution of this appeal will reduce the development costs and facilitate construction and delivery of needed housing to the Portland market.

Thank you for your consideration of this appeal response.

Sincerely,



Christe C White

Wednesday, July 14, 2021 2:00 p.m.

Agenda No. 567	First Name	Last Name	Zip Code
O-1	Iain	MacKenzie	97214
S-1	John	Czarnecki	97210